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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/901,277      | 07/09/2001  | Osamu Nagata         | 7217/64520          | 7556             |

7590 07/12/2004  
COOPER & DUNHAM LLP  
1185 Avenue of the Americas  
New York, NY 10036

EXAMINER

PSITOS, ARISTOTELIS M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2653

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DATE MAILED: 07/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/901,277

Applicant(s)

NAGATA ET AL.

Examiner

Aristotelis M Psitos

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/09/04 has been entered.

#### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

The claimed invention is directed to non-statutory subject matter. In particular, claim 1 is drawn to nonfunctional descriptive material – see MPEP 2106, section IV B1 (b).

The examiner interprets the claim (claim 1) as being drawn to purely non-functional descriptive material. There is no functionality/tie in with the information recited as being recorded onto the medium.

Claim 1 is rejected under 35 USC 101 as being drawn to non-statutory subject matter – see above.

#### ***Response to Arguments***

2. Applicant's arguments with respect to the claim have been carefully considered; nevertheless, there is a lack of functionality of the information/data found on the record medium. Applicants' attention is drawn to *In re Lowry, (CAFC) 32 USPQ2nd 1031*.

The examiner concludes that as presented the claims fail to satisfy the requirements as further analyzed with respect to Lowry (supra). The examiner proffers the following suggestion as illustrative only: In line 13 of claim 1, phraseology to wit:

"such as/so that the beginning/ending of the program number is properly identified."

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The examiner interprets the second management data as that indicative of the program numbers as found on page 38 of the specification, hence the above example. If this is incorrect, proper functional tie in with at least one of the claimed information/data areas needs to be included in order to overcome the above rejection.

### **Conclusion**

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Goto (5508984) – see abstract and description with respect to the TOC area (management area, including title of each program).

Moriguchi – abstract and description with respect to figure 3 program, titles etc. and col. 5 lines 20 plus.

Dockes et al – see abstract and description with respect to the tables starting at col. 12, programs, titles, etc.

Kurakake et al – see the abstract and the description with respect to attribute information following the “.” (col 9 lines 32 plus).

Matsumoto et al with respect to the delimiters.

Utsumi – abstract and the description with respect to col. 43 plus with respect to the special code “title settle code”.

Takaku et al/EP 655740/Yokata et al as previously cited.

### **Errata**

The examiner is not certain as to which figure now reads upon the claim and respectfully requests applicants' assistance in identifying such.

**Hard copies of the application files are now separated from this examining corps; hence the examiner can answer no questions that require a review of the file without sufficient lead-time.**

**Any inquiries concerning missing papers/references, etc. must be directed to Group 2600 Customer Services at (703) 306-0377.**

Any inquiry concerning the merits of this communication or earlier communications from the examiner should be directed to Aristotelis M Psitos whose telephone number is (703) 308-1598. The examiner can normally be reached on M-Thursday 8 - 4.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William R. Korzuch can be reached on (703) 305-6137. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aristotelis M Psitos  
Primary Examiner  
Art Unit 2653



AMP